

Oct 05, 2017

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSEPH B. ONLEY, a married man,

No. 2:16-CV-00203-SMJ

Plaintiff,

v.

PEND OREILLE COUNTY PUBLIC
UTILITY DISTRICT, a municipal
corporation,

Defendants.

**ORDER DENYING PARTIAL
SUMMARY JUDGMENT**

Plaintiff Joseph Onley was demoted from his position as a manager with the Pend Oreille County Public Utility District (the PUD) in June 2013 and later terminated in June 2016. Onley alleged breach of contract and due process claims relating to his demotion, and breach of contract, due process, and state-law age-discrimination claims relating to his termination. ECF No. 15. The Court granted summary judgment in the PUD's favor on Onley's claims relating to his demotion and on Onley's age-discrimination claim, but the Court denied the PUD's motion for summary judgment on Onley's due process and breach of contract claims relating to his termination. ECF Nos 35 & 43. The Court subsequently denied the PUD's motion for reconsideration. ECF No. 47.

The PUD now moves for summary judgment on Onley’s claims for back pay and emotional distress damages. ECF No. 48. The PUD argues that Onley received all the constitutional process he was due, and that even if there was a violation of process, he suffered no more than nominal damages because his position was eliminated. ECF No. 48 at 4–9. This appears to be little more than a second motion for reconsideration. The Court has already determined that disputed issues of fact preclude summary judgment on Onley’s due process claim, including whether Onley was terminated for disciplinary as opposed to budgetary reasons. ECF No. 43 at 8. In other words, the Court has already concluded that it is not clear from the record that absent a disciplinary motivation the PUD would have eliminated Onley’s position on the day it terminated his employment.

Accordingly, Defendant’s Motion for Partial Summary Judgment (Damages), ECF No. 48, is DENIED.

14 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
15 provide copies to all counsel.

16 || **DATED** this 5th day of October 2017.

17
18 Salvador Menjivar
SALVADOR MENJIVAR, JR.
United States District Judge